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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,502	09/18/2001	Diana Downs	960296.97559	9804

27114 7590 06/09/2003

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EXAMINER

DUFFY, PATRICIA ANN

ART UNIT

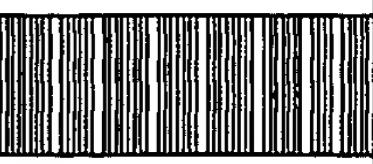
PAPER NUMBER

1645

DATE MAILED: 06/09/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/955,502	Applicant(s) Downs et al	Examiner Patricia A. Duffy	Art Unit 1645	
	-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --				
Period for Reply					
<i>One / PA</i>					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.					
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 					
Status					
1) <input type="checkbox"/> Responsive to communication(s) filed on _____					
2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.					
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.					
Disposition of Claims					
4) <input checked="" type="checkbox"/> Claim(s) <u>1-15</u> is/are pending in the application.					
4a) Of the above, claim(s) _____ is/are withdrawn from consideration.					
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.					
6) <input type="checkbox"/> Claim(s) _____ is/are rejected.					
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.					
8) <input checked="" type="checkbox"/> Claims <u>1-15</u> are subject to restriction and/or election requirement.					
Application Papers					
9) <input type="checkbox"/> The specification is objected to by the Examiner.					
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.					
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.					
Priority under 35 U.S.C. §§ 119 and 120					
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).					
*See the attached detailed Office action for a list of the certified copies not received.					
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.					
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.					
Attachment(s)					
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____			
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)			
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		6) <input type="checkbox"/> Other: _____			

Art Unit: 1645

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-14, drawn to method of reducing superoxide damage or increasing resistance of an oxygen-labile protein to oxidation, classified in class 435, subclass 69.1.
 - II. Claim 15, drawn to method of screening compounds for antibiotic resistance by testing the compounds ability to affect YggX activity, classified in class 435, subclass 4.
2. The inventions are distinct, each from the other because of the following reasons:

Groups 1 and 2 are related as methods, however the methods are distinct as claimed because they have different processes steps (expressing YggX in a cell versus detecting YggX activity and contacting with a compound) and different final outcomes (reducing superoxide damage versus screening compounds for antibiotic properties). As such, the methods are distinct as claimed.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, as

Art Unit: 1645

shown by their different classification, restriction for examination purposes as indicated is proper and in the absence of restriction would place an undue search and examination burden on the examiner.

3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

5. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A. Duffy, Ph.D. whose telephone number is (703) 305-7555. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached at (703) 308-3909.

Patricia A. Duffy, Ph.D.

Application/Control Number: 09/955,502

Page 4

Art Unit: 1645

June 8, 2003

Patricia A. Duffy
Patricia A. Duffy, Ph.D.
Primary Examiner
Group 1600